

## CHAPTER XI—TECHNOLOGY ADMINISTRATION, DEPARTMENT OF COMMERCE

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## PART 1150—MARKING OF TOY, LOOK-ALIKE AND IMITATION FIREARMS

Sec.

1150.1 Applicability.

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AUTHORITY: Section 4 of the Federal Energy Management Improvement Act of 1988, 15 U.S.C. 5001.

SOURCE: 54 FR 19358, May 5, 1989, unless otherwise noted.

### § 1150.1 Applicability.

This part applies to toy, look-alike, and imitation firearms ("devices") having the appearance, shape, and/or configuration of a firearm and produced or manufactured and entered into commerce on or after May 5, 1989, including devices modelled on real firearms manufactured, designed, and produced since 1898. This part does not apply to:

(a) Non-firing collector replica antique firearms, which look authentic and may be a scale model but are not intended as toys modelled on real firearms designed, manufactured, and produced prior to 1898;

(b) Traditional B-B, paint-ball, or pellet-firing air guns that expel a projectile through the force of compressed air, compressed gas or mechanical spring action, or any combination thereof, as described in American Society for Testing and Materials standard F 589-85, Standard Consumer Safety Specification for Non-Powder Guns, June 28, 1985. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. Copies may be inspected at the office of the Associate Director for Industry and Standards, National Institute for Standards and Technology, Gaithersburg, Maryland, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC; and

(c) Decorative, ornamental, and miniature objects having the appearance,

shape and/or configuration of a firearm, including those intended to be displayed on a desk or worn on bracelets, necklaces, key chains, and so on, provided that the objects measure no more than thirty-eight (38) millimeters in height by seventy (70) millimeters in length, the length measurement excluding any gun stock length measurement.

[57 FR 48453, Oct. 26, 1992]

### § 1150.2 Prohibitions.

No person shall manufacture, enter into commerce, ship, transport, or receive any toy, look-alike, or imitation firearm ("device") covered by this part as set forth in § 1150.1 of this part unless such device contains, or has affixed to it, one of the markings set forth in § 1150.3 of this part, or unless this prohibition has been waived by § 1150.4 of this part.

[54 FR 19358, May 5, 1989]

### § 1150.3 Approved markings.

The following markings are approved by the Secretary of Commerce:

(a) A blaze orange (Federal Standard 595a, February, 1987, color number 12199, issued by the General Services Administration) or orange color brighter than that specified by the federal standard color number, solid plug permanently affixed to the muzzle end of the barrel as an integral part of the entire device and recessed no more than 6 millimeters from the muzzle end of the barrel. This incorporation by reference was approved by the Director of the Federal Register in accordance with U.S.C. 552(a) and 1 CFR part 51. Copies of Federal Standard 595a may be obtained from the Office of Engineering and Technical Management, Chemical Technology Division, Paints Branch, General Services Administration, Washington, DC 20406. Copies may be inspected at the office of the Associate Director for Industry and Standards, National Institute for Standards and Technology, Gaithersburg, Maryland, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(b) A blaze orange (Federal Standard 595a, February, 1987, color number 12199, issued by the General Services

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Administration) or orange color brighter than that specified by the Federal Standard color number, marking permanently affixed to the exterior surface of the barrel, covering the circumference of the barrel from the muzzle end for a depth of at least 6 millimeters. This incorporation by reference was approved by the Director for the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of Federal Standard 595a may be obtained from the Office of Engineering and Technical Management, Chemical Technology Division, Paints Branch, General Services Administration, Washington, DC 20406. Copies may be inspected at the office of the Associate Director for Industry and Standards, National Institute for Standards and Technology, Gaithersburg, Maryland, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(c) Construction of the device entirely of transparent or translucent materials which permits unmistakable observation of the device's complete contents.

(d) Coloration of the entire exterior surface of the device in white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern.

[54 FR 19358, May 5, 1989, as amended at 57 FR 48454, Oct. 26, 1992]

#### § 1150.4 Waiver.

The prohibitions set forth in § 1150.2 of this part may be waived for any toy, look-alike or imitation firearm that will be used only in the theatrical, movie or television industries. A request for such a waiver should be made, in writing, to the Chief Counsel for Technology, United States Department of Commerce, Washington, DC 20230. The request must include a sworn affidavit which states that the toy, look-alike, or imitation firearm will be used only in the theatrical, movie or television industry. A sample of the item must be included with the request.

[57 FR 48454, Oct. 26, 1992]

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#### § 1150.5 Preemption.

In accordance with section 4(g) of the Federal Energy Management Improvement Act of 1988 (15 U.S.C. 5001(g)), the provisions of section 4(a) of that Act and the provisions of this part supersede any provision of State or local laws or ordinances which provides for markings or identification inconsistent with the provisions of section 4 of that Act or the provisions of this part.

[54 FR 19358, May 5, 1989]

### PART 1160—PRODUCTIVITY, TECHNOLOGY AND INNOVATION

#### Subpart A—Promotion of Private Sector Industrial Technology Partnerships

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AUTHORITY: 15 U.S.C. 1512 and 3710, 15 U.S.C. 205a, DOO 10–17 and DOO 10–18.

#### Subpart A—Promotion of Private Sector Industrial Technology Partnerships

SOURCE: 48 FR 52289, Nov. 17, 1983. Redesignated at 56 FR 41282, Aug. 20, 1991, unless otherwise noted.

#### § 1160.1 Purpose.

The purpose of this part is to establish procedures under which the Department of Commerce will provide assistance for the establishment by the private sector of Industrial Technology Partnerships (as defined in § 1160.2).

**§ 1160.2 Definitions.**

(a) *Industrial Technology Partnerships (ITPs)*. As used in this subpart, ITPs include research and development limited partnerships (RDLPs) and cooperative R&D arrangements of companies, non-profit organizations, and Federal agencies or some combination thereof.

(b) *Research and Development Limited Partnership (RDLP)*. In general, the RDLP is a type of business organization to raise venture capital from the private sector to fund specified research and development projects. Additional characteristics are as follows:

(1) *Establishment in general*. An RDLP can be established by an existing firm, or by an independent entrepreneur, to finance specified research and development projects. It can effectively finance both small and large scale projects. It is established by a partnership agreement tailored to the particular projects to be funded.

(2) *Classes of partners*. In general, a partnership agreement establishing an RDLP will provide for two classes of partners, as follows:

(i) The *General Partner* or partners provide the management for the partnership, obtain funding, make arrangements for the conduct of research, and ultimately either manufacture any new products resulting from the research and development or license out the resulting technology; and

(ii) The *Limited Partners* invest in the partnership, bear most or all of the financial risk, share in the financial success from proceeds of manufacture, royalties or other paybacks, and receive tax benefits, but exercise no active management role in the partnership.

**§ 1160.3 Assistance to industrial technology partnerships.**

(a) *General*. The types of assistance available to Industrial Technology Partnerships (ITPs) are described in the following subsections. Additional assistance which is specific to Research and Development Limited Partnerships (RDLPs) is described in paragraph (f) of this section.

(b) *Workshops*. Upon request, the Secretary may hold workshops with representatives from the private sector and government in order to further the

objectives of this part. Such workshops are designed to explore interest in specific potential ITPs. They will be structured to avoid antitrust problems.

(c) *Clearinghouse*. The Department's experience with Industrial Technology Partnerships, notably RDLPs, indicates that numerous potential participants in RDLPs, especially General Partners, need access to specialized information. Accordingly, the Department will develop and maintain a list of specific public and private sector specialists in such categories as venture capitalists, tax accountants, legal specialists, university and non-profit laboratories, brokers, technical and economic feasibility analysts, and proprietary information specialists (especially in patents). Persons wishing to be included in the list or wishing to receive a copy of the list should write to the following address:

Industrial Technology Partnerships Program, Herbert C. Hoover Building, Room 4816, Box B, U.S. Department of Commerce, Washington, D.C. 20230.

Inclusion on the list is voluntary, and is free of charge to all parties, as is receipt of the list. The Department of Commerce, however, makes no representation about the qualifications, experience or ability of any individual identified in these lists.

(d) *Small business*. The Department is aware of the significant contributions of technology-related small business to the economic health of the Nation. Accordingly, the Department shall identify sources of information for them on innovation services and resources including, for example: Technologies available for licensing; markets for new technology-based products and services; financing; techniques and incentives for innovation; organizations providing feasibility testing and demonstration services; and information on production and distribution methods. This assistance may be supplemented by the list of referrals described in paragraph (c) of this section.

(e) *Patent licensing*. To assist industrial technology partnerships, the Patent Licensing Program of the National Technical Information Service (NTIS)

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will provide ITPs with current announcements of the availability of licenses to use government-owned technology (on an exclusive or non-exclusive basis). Write to:

David T. Mowry, Director, Center for the Utilization of Federal Technology, NTIS, 5285 Port Royal Road, Springfield, Virginia 22101.

(f) *Additional assistance for Research and Development Partnerships (RDLPs).* The Department has no funds available for direct financial support for the establishment or operation of any ITP. Anyone wishing to apply for any of the services listed below should direct their inquiry to:

Industrial Technology Partnerships Program, Herbert C. Hoover Building, Room 4816, Box B, U.S. Department of Commerce, Washington, D.C. 20230.

(1) *Introductory training.* The Department will accept a limited number of businesspersons, academicians and other persons for purposes of providing introductory training in the concept of RDLPs. Such training will be tailored to the needs of the trainee, wherever possible. Travel and other expenses of the trainees will be borne by the trainees.

(2) *Information on RDLPs.* The Department will make available information on research and development limited partnerships. A fee may be charged for the printing costs of Departmental publications.

(3) *Data bases.* The Department will provide after May, 1984 as available, technical and marketing data on specific technologies, which may be useful to potential general partners in drafting business plans.

#### § 1160.4 Antitrust considerations.

The Department of Commerce will offer no opinion on the antitrust merits of the formation of any industrial technology partnership. The Secretary, upon request, may seek the Attorney General's opinion as to whether proposed joint research activities would violate any of the antitrust laws.

#### § 1160.5 Coordination/cooperation with other Federal agencies.

Where relevant, the Department may seek the cooperation of other Federal

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agencies and laboratories that may be of assistance to industrial technology partnerships.

#### § 1160.6 Proprietary data.

All persons making a request under this part are cautioned that data submitted to the Department may be available for dissemination under the Freedom of Information Act. The Department would, however, withhold any information it deemed proprietary on the basis of the provision of 5 U.S.C. 552(b)(4). The Department will consult with the submitter of any data requested under the Freedom of Information Act prior to the release of such information, if the data is clearly marked "Proprietary" or "Company-Confidential."

#### § 1160.7 Amendment of procedures.

The right to amend or withdraw these procedures is expressly reserved.

### Subpart B—Strategic Partnership Initiative

SOURCE: 56 FR 41282, Aug. 20, 1991, unless otherwise noted.

#### § 1160.20 Purpose.

The purpose of this notice is to notify interested parties of procedures under which the Department of Commerce provides a forum for discussion by private sector interests on the feasibility of establishing strategic partnerships, especially for the development and exploitation of large scale enabling technologies.

#### § 1160.21 Definitions.

(a) *Strategic Partnerships.* *Strategic Partnerships* are multi-industry teams of firms and others formed to create and commercialize proprietary technologies, especially large scale enabling technologies, using a systems management approach. The design of and participants in a specific partnership will be solely at the discretion of the private sector. However, since these partnerships will be most effective when comprised of firms which can share proprietary information, it will probably be most useful if there are no competitors in the venture.

(b) *Large Scale Enabling Technologies.* *Large Scale Enabling Technologies* are technologies that are too complex and costly for a single firm to create and that have more potential applications than a single firm or a single industry can readily exploit. In some cases investments in these technologies may only be recouped if the results are used in several applications, often in different industries. Since speed of recoupment is often critical to continued competitiveness, it is often essential that multiple major applications are introduced simultaneously.

[56 FR 41282, Aug. 20, 1991; 56 FR 51257, Oct. 10, 1991]

**§ 1160.22 Goal of the Strategic Partnership initiative.**

(a) This new initiative is designed to provide the private sector with the opportunity to discuss the possible benefits of forming Strategic Partnerships among firms representing the entire food chain of specific technologies. By focusing on a specific technology, these partnerships will have the capability to integrate the innovation activities for a broad range of applications made possible by that technology. The integrative function differentiates this initiative from earlier Department of Commerce initiatives which deal with only one stage of the commercial process. Strategic Partnerships differ from traditional cooperative R&D consortia which are composed primarily of competitors who cooperate only in the early precompetitive stage of innovation. In contrast, Strategic Partnerships are made up generally of non-competing companies (see § 1160.21(a)) and are capable of accomplishing the entire process of innovation working on a proprietary basis.

(b) The immediate goal of this initiative is to hold workshops upon a request from the private sector in key technologies at which the stakeholder industries in the food chain for each technology will have a chance to consider potential applications of the technology, current status of the technology, what R&D needs to be performed, the competitive position of U.S. industry in that technology, including the status of foreign competition, and the ways in which U.S. stake-

holders might organize themselves to maximize commercial benefits. The ultimate outcome of such workshops will be entirely at the discretion of the private sector and may include the formation of one or more Strategic Partnerships, other types of multifirm ventures, or no action at all. The Department will not undertake to form specific partnerships. This will be solely at the discretion of the participants.

[56 FR 41282, Aug. 20, 1991; 56 FR 51257, Oct. 10, 1991]

**§ 1160.23 Assistance in establishing Strategic Partnerships.**

(a) General. The Department has no funds available for direct financial support for the establishment or operation of a Strategic Partnership.

(b) Information Briefings. The Department plans to hold an initial briefing to acquaint the private sector with the dynamics of the systems approach used in Strategic Partnerships, including how they may offer a means for firms to collaborate primarily in large scale enabling technologies. Additional information and technical assistance may be obtained from the Director, Office of Technology Policy Analyses and Studies, Technology Administration, room 4835, Herbert C. Hoover Building, U.S. Department of Commerce, Washington, DC 20230 (202) 377-1518.

(c) Workshops. Upon request the Department may hold workshops to explore interest in Strategic Partnerships for a specific technology. Working with the requester, Commerce will determine which industries have a stake in the technology, invite the firms from those industries, and design the meeting agenda and background materials. Anyone wishing to apply for such a workshop should direct their inquiry to the Assistant Secretary for Technology Policy, Technology Administration, room 4818, Herbert C. Hoover Building, U.S. Department of Commerce, Washington, DC 20230.

(d) All workshops will be held on a fee basis at no cost to the Department.

**§ 1160.24 Antitrust considerations.**

(a) The Department of Commerce will offer no opinion on the antitrust

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merits of the formation of any proposed Strategic Partnership. The Department may seek an opinion from the Antitrust Division of the Department of Justice as to whether a proposed Strategic Partnership would raise antitrust issues. Furthermore, the role played by the Department of Commerce confers no special immunity to any given Strategic Partnership.

(b) Strategic Partnerships may be formed without any consultation with or involvement by the Department of Commerce; the purpose of the Strategic Partnership Initiative is to make the private sector aware of this vehicle and, where requested, conduct workshops to discuss the formation of such partnerships in general. Commerce will not select the technologies, the number of partnerships, or the specific firms in a given partnership.

### **§ 1160.25 Coordination/cooperation with other federal agencies.**

Where relevant, the Department may seek the cooperation of other Federal agencies and laboratories that may be of assistance to Strategic Partnerships.

### **§ 1160.26 Proprietary data.**

All persons making a request under this part are cautioned that data submitted to the Department may be available for dissemination under the Freedom of Information Act. The Department, however, would withhold any information it deemed proprietary (confidential commercial or financial) on the basis of 5 U.S.C. 552(b)(4). The Department will consult with the submitter of any data requested under the Act, prior to release of such information, if the data is clearly marked "Company Confidential." (See 15 CFR 4.7).

### **§ 1160.27 Amendment of procedures.**

The right to amend or withdraw these procedures is expressly reserved.

## **PART 1170—METRIC CONVERSION POLICY FOR FEDERAL AGENCIES**

Sec.

1170.1 Purpose.

1170.2 Definition.

1170.3 General policy.

1170.4 Guidelines.

## **15 CFR Ch. XI (1–1–99 Edition)**

1170.5 Recommendations for agency organization.

1170.6 Reporting requirement.

1170.7–1170.199 [Reserved]

AUTHORITY: 15 U.S.C. 1512 and 3710, 15 U.S.C. 205a, DDO 10–17 and DDO 10–18.

SOURCE: 56 FR 160, Jan. 2, 1991. Redesignated at 56 FR 41283, Aug. 20, 1991, unless otherwise noted.

### **§ 1170.1 Purpose.**

To provide policy direction for Federal agencies in their transition to use of the metric system of measurement.

### **§ 1170.2 Definition.**

*Metric system* means the International System of Units (SI) established by the General Conference of Weights and Measures in 1960, as interpreted or modified from time to time for the United States by the Secretary of Commerce under the authority of the Metric Conversion Act of 1975 and the Metric Education Act of 1978.

*Other business-related activities* means measurement sensitive commercial or business directed transactions or programs, i.e., standard or specification development, publications, or agency statements of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of an agency. "Measurement sensitive" means the choice of measurement unit is a critical component of the activity, i.e., an agency rule/regulation to collect samples or measure something at specific distances or to specific depths, specifications requiring intake or discharge of a product to certain volumes or flow rates, guidelines for clearances between objects for safety, security or environmental purposes, etc.

### **§ 1170.3 General policy.**

The Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418, section 5164) amended the Metric Conversion Act of 1975 to, among other things, require that each Federal agency, by a date certain and to the extent economically feasible by the end of the fiscal year 1992, use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such



use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units.

(a) The Secretary of Commerce will appoint a Commerce Department Under Secretary to assist in coordinating the efforts of Federal agencies in meeting their obligations under the Metric Conversion Act, as amended.

(b) Federal agencies shall coordinate and plan for the use of the metric system in their procurements, grants and other business-related activities consistent with the requirements of the Metric Conversion Act, as amended. Federal agencies shall encourage and support an environment which will facilitate the transition process. When taking initiatives, they shall give due consideration to known effects of their actions on State and local governments and the private sector, paying particular attention to effects on small business.

(c) Each Federal agency shall be responsible for developing plans, establishing necessary organizational structure, and allocating appropriate resources to carry out this policy.

#### § 1170.4 Guidelines.

Each agency shall:

(a) Establish plans and dates for use of the metric system in procurements, grants and other business-related activities;

(b) Coordinate metric transition plans with other Federal agencies, State and local governments and the private sector;

(c) Require maximum practical use of metric in areas where Federal procurement and activity represents a predominant influence on industry standards (e.g.: weapon systems or space exploration). Strongly encourage metrication in industry standards where Federal procurement and activity is not the predominant influence, consistent with the legal status of the metric system as *the preferred system of weights and measures for United States trade and commerce*;

(d) Assist in resolving metric-related problems brought to the attention of the agency that are associated with

agency actions, activities or programs undertaken in compliance with these guidelines or other laws or regulations;

(e) Identify measurement-sensitive agency policies and procedures and ensure that regulations, standards, specifications, procurement policies and appropriate legislative proposals are updated to remove barriers to transition to the metric system;

(f) Consider cost effects of metric use in setting agency policies, programs and actions and determine criteria for the assessment of their economic feasibility. Such criteria should appropriately weigh both agency costs and national economic benefits related to changing to the use of metric;

(g) Provide for full public involvement and timely information about significant metrication policies, programs and actions;

(h) Seek out ways to increase understanding of the metric system of measurement through educational information and guidance and in agency publications;

(i) Consider, particularly, the effects of agency metric policies and practices on small business; and

(j) Consistent with the Federal Acquisition Regulation System (48 CFR), accept, without prejudice, products and services dimensioned in metric when they are offered at competitive prices and meet the needs of the Government, and ensure that acquisition planning considers metric requirements.

#### § 1170.5 Recommendations for agency organization.

Each agency shall:

(a) Participate, as appropriate, in the Interagency Council on Metric Policy (ICMP), and/or its working committee, the Metrication Operating Committee (MOC), in coordinating and providing policy guidance for the U.S. Government's transition to use of the metric system.

(b) Designate a senior policy official to be responsible for agency metric policy and to represent the agency on the ICMP.

(c) Designate an appropriate official to represent the agency on the Metrication Operating Committee (MOC), an interagency committee reporting to the ICMP.

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(d) Maintain liaison with private sector groups (such as the American National Metric Council and the U.S Metric Association) that are involved in planning for or coordinating National transition to the metric system.

(e) Provide for internal guidelines, training and documentation to assure employee awareness and understanding of agency metric policies and programs.

### § 1170.6 Reporting requirement.

Each Federal agency shall, as part of its annual budget submission each fiscal year, report to the Congress on the metric implementation actions it has taken during the previous fiscal year. The report will include the agency's implementation plans, with a current timetable for the agency's transition to the metric system, as well as actions planned for the budget year involved to implement fully the metric system, in accordance with this policy. Reporting shall cease for an agency in the fiscal year after it has fully implemented metric usage, as prescribed by the Metric Conversion Act (15 U.S.C. 205b(2).)

### §§ 1170.7–1170.199 [Reserved]

## PART 1180—TRANSFER BY FEDERAL AGENCIES OF SCIENTIFIC, TECHNICAL AND ENGINEERING INFORMATION TO THE NATIONAL TECHNICAL INFORMATION SERVICE

Sec.

1180.1 Purpose and scope.

1180.2 Definitions.

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1180.4 Preparing a product for transfer.

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1180.8 Appointment of Agency Liaison Officers.

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1180.11 Relation to other laws and procedures.

### APPENDIX TO PART 1180—SAMPLE FUNDING AGREEMENT CLAUSE FOR DIRECT SUBMISSION OF PRODUCTS

AUTHORITY: Sec. 108 of Pub. L. 102-245, 106 Stat. 7 (15 U.S.C. 3704b-2).

## 15 CFR Ch. XI (1-1-99 Edition)

SOURCE: 59 FR 10, Jan. 3, 1994, unless otherwise noted.

### § 1180.1 Purpose and scope.

(a) The purpose of this regulation is to facilitate public access to the vast amount of scientific, technical and engineering information (STEI) that is produced by and for federal agencies.

(b) This regulation provides a variety of methods for federal agencies to adopt to ensure the timely transfer to the National Technical Information Service (NTIS) of all unclassified STEI that is available for public dissemination and that results from federal funding. It is issued pursuant to the authority contained in Section 108 of the American Technology Preeminence Act (Pub. L. 102-245).

### § 1180.2 Definitions.

*Agency* means a federal agency as that term is defined in Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3703(8));

*Director* means the Director of the National Technical Information Service.

*Federally funded* refers to STEI which results from federal research and development activities funded in whole or in part with federal funds, whether performed by the agency itself or by contractors, grantees, cooperative research partners, joint venture partners, or under any similar arrangement involving federal funds.

*Final* when used to describe an STEI product means a product that the originating agency or contractor/grantee thereof intends for public dissemination and may exclude interim status reports routinely furnished to agencies by contractors and grantees for monitoring and other internal purposes and which are not intended for public dissemination.

*Product* includes, but is not limited to, any report, manual, standard, specification, book, paper, chart, map, graph, data collection, data file, data compilation, software, audio/video production, technology application assessment generated pursuant to Section 11(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(c)), as well as materials pertaining

to training technology and other federally owned or originated technologies, and applies to items produced in-house or outside the agency through the Government Printing Office, its contractors, Federal Prison Industries or any other producer, provided that such material is intended by the agency for public dissemination.

*Scientific, technical and engineering information* means—

(1) Basic and applied research that results from the efforts of scientists and engineers in any medium (including new theory and information obtained from experimentation, observation, instrumentation or computation in the form of text, numeric data or images), and

(2) Information that bears on business and industry generally, such as economic information, market information and related information, if the agency determines such information would be of value to consumers of the information described in paragraph (1) of this definition.

*Summary* means information relating to an ongoing research project likely to result in a final product.

### § 1180.3 General rule.

Unless an exception applies under section 1180.7, each federal agency shall, within the time period specified in this regulation, transfer to NTIS—

(a) At least one copy of every final STEI product resulting from the agency's federally funded research and development activities, and

(b) A summary of the agency's new and on-going research that is likely to result in a final STEI product

if such final product or summary is unclassified and is intended by the agency for public dissemination.

### § 1180.4 Preparing a product for transfer.

(a) Every final STEI product or summary shall, to the extent practicable, be prepared in a format that is consistent with one of the various formats found in NTIS guidelines. In addition, every such product shall—

(1) Be accompanied by a report documentation page (SF 298) or its electronic equivalent;

(2) Be in a form capable of high quality reproduction appropriate to the medium;

(3) In the case of software, be accompanied by relevant documentation, such as operating manuals, but not including printed source code; and

(4) In the case of a product not printed by the Government Printing Office, be accompanied by a statement as to whether the product has been made available for depository distribution by the Government Printing Office.

(b) Each federal agency shall transfer or have transferred to NTIS those STEI products funded by it that are protected by copyright only if there is a license reserved to the Government. In such cases, the agency shall inform NTIS of the terms of the license. Suggested language for inclusion in agency funding instruments is contained in the Appendix to this part.

(c) If an agency has generated or funded an STEI product which should be available for public dissemination but has embedded within it any copyrighted material, the designated liaison appointed pursuant to § 1180.8 should work with NTIS to determine if it would be appropriate to seek a license from the copyright holder in order to make the STEI product available.

### § 1180.5 Timeliness.

A single copy of a final product or summary described in § 1180.3 must be transferred to NTIS within fifteen days of the date it is first made available for public dissemination through any distribution channel, and, whenever practical, as soon as it has been approved by the agency for final printing or other reproduction, unless the agency and the Director have otherwise agreed.

### § 1180.6 Production of additional copies.

Unless the agency determines that such action would not be feasible, it shall make appropriate arrangements to enable NTIS, from time to time and at NTIS's own discretion and expense, to ride agency printing and other reproduction orders.

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### § 1180.7 Exceptions.

(a) An agency shall not be required to take any further action to submit a copy of a final STEI product to NTIS or one of its affiliates if—

(1) It has designated NTIS to receive a single copy of each STEI product once it has been produced, has made the arrangements specified in § 1180.6, if appropriate, and has made arrangements to receive appropriate certification from a contractor, grantee or other external performer of federally funded research that a copy has been sent to NTIS or one of its affiliates within the appropriate time period pursuant to obligations incurred in the applicable funding agreement (see Appendix to this part) or pursuant to such other system as the agency has established to ensure timely transfer;

(2) The agency and the Director have executed an appropriate agreement or memorandum of understanding establishing an alternative system for compliance; or

(3) The federally funded STEI is protected by copyright for which no license has been reserved to the Government that would allow distribution by NTIS;

(4) The product is an agency generated article that is published in a privately produced journal; or

(5) The agency and the Director, pursuant to paragraph (b) of this section, have agreed that the transfer of a product otherwise covered by these regulations would not be appropriate.

(b) An agency and the Director shall be deemed to be in agreement within the meaning of paragraph (a)(3) of this section if the Director has not objected within 30 days to an agency's written notification of its determination that timely transfer of a product or category of products would not be appropriate under section 108 of the American Technology Preeminence Act. Examples of inappropriate transfers include:

(1) Transfers that could cause significant harm to an agency's existing dissemination program that is operating on a cost recovery basis, is operating in compliance with the policies described by OMB Circular A-130, and for which special arrangements that would per-

mit supplemental distribution by NTIS cannot be negotiated.

(2) Federally funded STEI that has received, or is likely to receive, widespread distribution to most potential users at no charge.

### § 1180.8 Appointment of Agency Liaison Officers.

The head of each agency shall appoint or designate an officer or employee to serve as the STEI Liaison. The Liaison shall, to the extent authorized by the head of the agency—

(1) In cooperation with the Director, determine what products or summaries produced by the Government shall be transferred to NTIS on an ongoing basis;

(2) Determine which funding agreements are to require contractors and grantees to submit products directly to NTIS (for which purpose the Appendix to this part contains suggested language that agencies may wish to include in applicable funding instruments);

(3) Appoint additional liaison officers for major units or components of an agency if the Director and Liaison officer agree this would further the purposes of this regulation; and

(4) Enter into appropriate agreements with the Director and perform any other agency responsibilities described in this regulation.

### § 1180.9 Affiliates.

(a) The Director may recognize any federal agency or component of an agency as an affiliate for the purpose of receiving, on behalf of NTIS, any STEI product that is required to be transferred under these regulations if NTIS has entered into a memorandum of understanding with the Liaison Officer under which the recognized affiliate agrees to the ongoing transfer of all STEI products to NTIS in a timely manner and otherwise agrees to assume the role of an affiliate.

(b) A transfer by an agency to an approved affiliate shall be deemed a transfer to NTIS within the meaning of these regulations.

**§ 1180.10 NTIS permanent repository.**

A product, or category of product, will normally be accepted and maintained as part of NTIS' permanent repository as a service to agencies unless the Director advises the Liaison Officer that it has not been so accepted. In general, transferred products will not be accepted if they have not been properly prepared as required by Section 1180.4 or if NTIS believes that the cost of adding them to the repository will significantly exceed anticipated benefits to the public as measured by foreseeable demand. A product announced by NTIS as being available from NTIS shall be deemed to have been accepted by NTIS as part of its permanent repository.

**§ 1180.11 Relation to other laws and procedures.**

(a) Nothing in these regulations shall be deemed to exempt an agency from any of the following requirements:

(1) Compliance with the Freedom of Information Act (5 U.S.C. 552);

(2) Compliance with any requirements to protect material that contains classified national security information;

(3) Compliance with requirements to protect personal or other information that may not be disclosed without appropriate authority under applicable laws and procedures, such as the Privacy Act (5 U.S.C. 552a);

(4) Compliance with laws and regulations applicable to federal records under Title 44 of the United States Code or regulations issued by the National Archives and Records Administration (36 CFR, chapter XII);

(5) Compliance with requirements to distribute publications through the Depository Library Program either directly or through NTIS as prescribed in subsection (d) of this section; and

(6) In the case of an agency that is also a component of an agency as that term is defined in § 1180.2, compliance with all applicable requirements and procedures of the parent agency regarding these regulations.

(b) Nothing in these regulations shall be deemed to require an agency to take any of the following actions:

(1) To use NTIS as an agency's exclusive distribution channel;

(2) To transfer to NTIS information on matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order; or

(3) to transfer, produce, or disseminate any other information that is required by law to be withheld, which the agency is authorized to withhold, or which is not intended by the agency for public dissemination.

(c) No contractor, grantee, or employee of a Federal agency shall submit a final STEI product directly to NTIS unless authorized to do so by the Liaison or the Liaison's designate, which authorization may be provided in an approved funding agreement (see Appendix to this part).

(d) In order to facilitate cooperation between agencies and the Depository Libraries—

(1) NTIS will, as soon as possible, but not later than six months from the effective date of these regulations, provide each Depository Library at no charge, online access to a current list of all final STEI products provided to NTIS under these regulations that have been entered into the NTIS system.

(2) The online system described in subsection (d) of this section will include an option that will allow each Depository Library thirty days from the date a product is added to the online listing to identify a product that it wishes to receive and that has not otherwise been made available to it.

(3) NTIS will accumulate these requests and, within a reasonable time, transfer them to the originating agency for fulfillment of each of the identified products.

(4) In lieu of the procedures described in paragraph (d)(3) of this section, NTIS will offer to enter into simple cost recovery arrangements with the originating agency to duplicate and ship the identified products to the requesting Libraries in the format that the agency determines to be most cost effective, including microfiche, paper, diskette, or disc.

(5) NTIS will also establish, as soon as practical, a system of full text online access to final STEI products for the Depository Libraries at no charge to them. Those final STEI products provided to NTIS in a format prescribed by NTIS as suitable for online dissemination under this system will be made available to the Libraries at no charge to the originating agency, will be maintained online indefinitely, and will be available to the Libraries without regard to the thirty day selection time limit described in paragraph (d)(2) of this section.

(6) The services in this paragraph will be provided to Depository Libraries on the condition that they agree to ensure that online access to the NTIS listing described in paragraph (d)(1) of this section is restricted to the Library and its staff and that the full text products provided online pursuant to paragraph (d)(5) of this section are available only to the community served by that Library.

APPENDIX TO PART 1180—SAMPLE FUNDING AGREEMENT CLAUSE FOR DIRECT SUBMISSION OF PRODUCTS

Agencies electing to allow for their contractors, grantees, etc. to submit final products directly to NTIS are encouraged to employ a provision similar to the following in the applicable funding agreement:

“The (contractor)/(recipient) shall certify to the (contracting) (grants) officer—

“(1) a copy of all scientific, technical and engineering information products created or finalized in whole or in part with the funds requested has been or will be transferred to NTIS or a recognized affiliate (at the same time that it is provided to the sponsoring agency) (when the agency has determined that the product is approved for public dissemination) but no later than fifteen days after it is first made available for public dissemination through any other distribution channel, and

“(2) NTIS, or a recognized affiliate, has been advised as to whether the product is protected by copyright and, if so, a copy of the terms of any licenses reserved to the Government has been sent to NTIS, along with a copy of the SF 298.”